

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-135
Table of Allotments,)	RM-11215
FM Broadcast Stations.)	
(Jackson and Madison, Mississippi))	
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: July 13, 2005

Released: July 15, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*¹ issued at the request of New South Communications, Inc. ("Petitioner"), licensee of Station WUSJ(FM), Jackson, Mississippi proposing the reallocation of Channel 242C0 from Jackson to Madison, Mississippi as the community's first local transmission service, and the modification of the license for Station WUSJ (FM) to reflect the new community. Petitioner filed comments. No other comments or counterproposals were filed.

2. Petitioner filed this proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.² In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based upon the FM Allotment priorities.³

3. In support of the petition, Petitioner states that its proposal would result in a preferential arrangement of allotments, and meets the requirements for reallocation set forth in *Change of Community R&O*. First, the allotment of Channel 242C0 at Madison is mutually exclusive with the current use of Channel 242C0 at Jackson. Second, the community of Jackson, 2000 U.S. Census population 184,256 persons, would not be deprived of its sole local service.⁴ Third, the proposal would provide a first local aural transmission service at Madison under Priority (3), which will result in a preferential arrangement of allotments over the retention of a thirteenth local transmission service at Jackson, which would serve Priority (4).

4. In further support of the reallocation, Petitioner claims that Madison is a community for allotment purposes. Petitioner notes that it is not proposing a change of site, that it remains within the

¹ *Jackson and Madison, Mississippi*, 20 FCC Rcd 6240 (2005).

² See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

³ See *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1988). The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)].

⁴ Twelve radio stations, five AM and seven FM (three NCE FM) stations will remain in Jackson.

Jackson Urbanized Area, since its proposed 70dBu contour will cover the same amount of the Jackson Urbanized Area, it is not considered a move-in to an urbanized area. Thus, no *Tuck*⁵ analysis is required.⁶ In support of its community status, Petitioner states that is an incorporated city of 14,692 persons, according to the 2000 U.S. Census, with an elected mayor and five-member board of aldermen. The community has its own city services, including departments of finance and administration, parks and recreation, planning and development, and public works. The city also has police and fire departments and schools and libraries. There are also parks, churches, and businesses.

5. We agree with Petitioner's analysis. Accordingly, Channel 242C0 is reallocated at Madison at petitioner's site 24.0 kilometers (14.9 miles) southwest of the community.⁷

6. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

7. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective August 29, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel</u>
Jackson, Mississippi	234C, 238C0, 259C, 275C
Madison, Mississippi	242C0

8. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) the authorization of New South Communications, Inc., licensee of Station WUSJ(FM), Jackson, Mississippi, IS MODIFIED to specify operation at Madison, Mississippi, subject to the following conditions:

- a) Within 90 days of the effective date of the *Order*, the licensee of Station WUSJ(FM) shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules, unless the proposed facilities are categorically excluded from environmental processing.

9. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, New South Communications, Inc., licensee of Station WUSJ(FM), is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the change in community of license for Station

⁵ *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

⁶ *Long Beach and East Los Angeles, California*, 10 FCC Rcd 2864 (1995). No site change is proposed in this case.

⁷ The coordinates for Channel 242C0 at Madison are 32-11-29 NL and 90-24-22 WL.

WUSJ(FM) at the time its Form 301 application is submitted.

10. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau